

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No 1185 of 1990

For Approval and Signature:

Hon'ble MR.JUSTICE M.C.PATEL Sd/-

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

RAJNIKANT NATVARLAL VORA

Versus

STATE OF GUJARAT

Appearance:

MR AD SHAH for Petitioner
MR MA PATEL, ASSISTANT GOVT. PUBLIC PROSECUTOR
for Respondent No. 1
MR PK PAREKH for Respondent No. 2

CORAM : MR.JUSTICE M.C.PATEL

Date of decision: 16/06/2000

ORAL JUDGEMENT

This petition under Article 226 of the Constitution of India and under section 482 of the Code of Criminal Procedure inter alia praying to quash the order passed by the learned J.M.F.C., Gandhinagar directing the investigation under section 156(3) of the Code and to quash the complaint. The respondent no.2 filed the said complaint on 13.07.1990. It appears from the averments made in the complaint that the petitioner and the respondent were partners. The grievance of the respondent was that the petitioner operated bank account in the name of the partnership firm even after its dissolution. He therefore filed complaint alleging offences under sections 406, 420, 471 and 477-A of IPC. The learned Magistrate ordered investigation by the police under section 156(3) of the Code. The learned Counsel for the petitioner submitted that the complaint itself shows that on dissolution the petitioner became the sole proprietor of the firm. He contended that none of the ingredients of the alleged offences have satisfied and the complaint prima facie does not disclose any of the said offence. Shri P.K.Parekh, learned Counsel for the respondent could not repel the said contention. In the circumstances the order passed by the learned Magistrate is set aside and the complaint is ordered to be quashed. Rule made absolute accordingly.

m.m.bhatt